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Fraud

White Collar Crime And Public Corruption:

An Examination of Penalties Received For The White Collar & Public Corruption Offender.

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Attorney General
Commonwealth of Massachusetts

October 1997

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Chief, Economic Crimes Division

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I. Opening Message From The Attorney General

White Collar Crime And Public Corruption: An Examination of Penalties Received For The White Collar and Public Corruption Offender.

As the chief law enforcement officer in the Commonwealth, I have witnessed the modern face of public corruption and private sector fraud change dramatically over the years. What has not changed is the devastation of such fraud upon the working men and women of this Commonwealth.

Although the techniques of theft are often more subtle and more sophisticated, the impact of so-called white collar crimes continues to cripple Massachusetts working men and women with hundreds of millions of dollars in losses. Each bureau and division in my office charged with the responsibility of aggressively prosecuting public and private financial crimes face the challenge of demonstrating the serious and egregious effects of white collar offenses. The resistance to this demonstration is acute. As prosecutors, we see the devastation following the wake of a financial crime. We watch as the ripples of impact from a large economic crime travel through families, communities, and in some instances, throughout the entire state, forever changing those affected. Whether that impact takes the shape of a personal tragedy, such as the loss of a life savings through the thievery of a trusted lawyer or security broker, or a public tragedy, such as the loss of trust and public confidence in our societal institutions resulting from the fraud of a public official, the toll of these crimes are felt by each one of us in the form of what I have termed the "**FRAUD TAX.**"

The **FRAUD TAX** is that hidden, extra amount of money each of us are forced to pay in order to counter the private and public fraud feeding upon our citizens, our businesses and our institutions. The **FRAUD TAX** costs us billions every year, in the form of higher taxes, increased insurance premiums for health care, increased costs for goods and services, for unemployment compensation and workers' compensation. Only through a state wide crack down on public and private financial fraud can we cut the "**FRAUD TAX**," a tax cut that will not only benefit us all personally, but will protect our most vulnerable citizens and enhance the economic competitiveness of our state. But simply indicting the white collar criminal, whether a private fiduciary or a public official or employee, and recommending an appropriate sentence to the courts, is not enough.

This report uncovers the millions lost by victims, both young and old, the millions lost in deals and conflicts covered up by sophisticated paper trails, and the arrogance of public and private individuals in positions of trust, who use their positions to make secret deals, to not pay their taxes, to shift client funds to their own personal use and establish dummy corporations, to file false reports and make secret contracts. This report highlights the number of defendants and corporations we have already brought to the courts for punishment, and the monies we have already uncovered as stolen.

In essence, the **statistics** contained within this report are not merely numbers, rather they paint the portrait of the battle we have, and still are, waging against private and public fraud. The defendants have been charged, the money they have stolen uncovered, but too often, they receive **minimal or no jail sentence** for their crimes.

To accomplish our combined goals, we must a send a message to every white collar offender that there are indeed costs to his conduct, that it will not be tolerated, and that it will be seriously sanctioned. I, as Attorney General, nor the prosecutors in my office, can deliver that message alone. This report, the third in a series on fraud, has the primary goal of heralding the call for legislative, judicial, and public efforts in joining my voice to toughen penalties for public corruption and white collar crime. The message must be clear that white collar crime is in fact criminal, it is unacceptable conduct, and it will not, and should not be tolerated. In other words, the risk of incarceration must become a reality that makes doing the time NOT worth doing the crime.

As we have discovered over and over in combatting fraud, the best form of public protection against the loss of millions in fraud is deterrence. We can deter fraud by prosecution, but we must enhance our efforts with tougher sentences for these types of crimes. Sentencing and legislative reform must be taken up now if we are to punish the guilty with the same seriousness that their offenses deserve by setting meaningful sentencing guidelines that will send the white collar felon to jail. Together, we can still reduce the fraud tax, and deter the white collar criminal from escaping his crime without serious punishment.

Sincerely,

Scott Harshbarger

II. The Profile Of A Hypothetical White Collar Criminal: A Statistical Portrait.

The seriousness of white collar offenses continue to be under-estimated. Once indicted, the reality is that the typical white collar criminal knows that, as the statistics bear out in a majority of cases such as his, he may risk a sentence which includes having to pay some of the stolen funds back in restitution. Even though he has spent most of the money that he has stolen, this will only enable him a greater argument to stay employed, and out of jail, so that he may make some semblance of a monthly payment to his victims.

The white collar criminal also faces the possibility that his sentence will include being placed on probation for a period of time since his crime falls within the discretionary zone which allows for intermediate sanctions, and perhaps some further conditions may be attached to his probation, such as doing some community service at a place where he isn't trusted with other people's money.

Finally, he concedes that there will be some embarrassment in facing a criminal charge, at least for a time, until the immediate attention dies down, even if a judge renders a sentence closer to his terms for a plea of guilty. There is also the possibility that the elderly victims from whom he stole the money will pass away prior to the matter being resolved. All in all, as he reflects upon his situation, the stolen monies actually amount to little more risk than an interest-free loan obtained with some degree of public shame, in addition to attorney's fees, of course.

In the final analysis, there is one remaining real concern for the average white collar felon, the more meaningful concern: the possibility that he may go to jail. The prosecution continues to argue that this crime should be treated with just such seriousness, demanding that he be incarcerated. For the white collar felon, the possibility of going to jail is a far more dampening consequence for violating his former position of trust and authority than all the others. But in examining the sentences for the majority of white collar crimes, jail terms occur only for those who hold up gas stations or banks, not a financial stock broker who dummies a few documents and steals several clients' life savings. However, the unfortunate result of jail, even though recommended by the Commonwealth in cases such as his, occurs in little over a quarter of the white collar offenses actually sentenced on average, and even in those cases, the amount of actual time served is minimal. He decides that such percentages are well worth the risk.

So he has been told, and so he hopes to join the majority of his felon population who have been sentenced before him.

III. Executive Summary: The Statistics Of White Collar Crime And Public Corruption Prosecutions.

A. PUBLIC CORRUPTION

1. The Criminal Bureau.

a. PUBLIC INTEGRITY DIVISION: 1991-1997

1. Number of Prosecutions Initiated.

a. Total Cases Prosecuted. 198
b. Public Employee Prosecutions 117

2. Number of Defendant Convicted. 133

3. Sentences Received

a. Incarcerated. 39

b. Non-incarcerated

1. Suspended Sentence and/or Probation 94
2. Acquittals/Dismissals 30

4. Number of Cases Pending. 35

5. PUBLIC FUNDS STOLEN: **$4,729,940.00**

2. The Business & Labor Protection Bureau.

a. **MEDICAID FRAUD CONTROL UNIT: 1992-1997**

1. Number of Prosecutions Initiated. 58

2. Number of Convictions. 64

3. Sentences Received
   a. Incarcerated. 21
   b. Non-incarcerated. 43
      1. Suspended Sentence 20
      2. Probation. 23
   c. Acquittals/Dismissals 0

4. Number of Cases Pending. 8

5. Total Public Medicaid Fraud Funds Recovered

   a. Criminal. **$1,419,324.50**
   b. Civil **$24,595,577.00**

B. PRIVATE SECTOR FRAUD

1. The Criminal Bureau.

a. THE ECONOMIC CRIMES DIVISION: 1992-1997

1. *Number of Prosecutions Initiated. . .262

2. Number of Defendants/Corporations Convicted 243

3. Sentences Received For White Collar Defendants: **1995-1997** (excluding tax cases)

   a. Number of Defendants/Corporations Convicted 102

      1. Incarceration (for any period of time) 36

      2. Non-incarceration (or Alternative Sentence). 66

         a. Suspended Sentences 23
         b. Probation 20
         c. Other (i.e. Guilty-fines) .23

      3. Acquittals/Dismissals. 4

4. Cases Involving **Elder** Victims/Witnesses For 1995-1997

   a. Amount of Funds Stolen: **$3,738,495.00**

5. Cases Involving **Nonprofit & Profit** Corporations or Businesses For 1995-1997

   a. Amount of Funds Stolen: **$3,748,000.00**

* *A single case may include multiple defendants & corporations.*

6. Tax Prosecutions For 1995-1997

   a. Total Unreported Taxable Sales, Meals, Wages or Income: **$27,256,000.00**

   b. Number of Tax Defendants/Corporations Convicted 1995-1997. 55

   c. Sentences Received For Tax Defendants 1995-1997

      1. Incarceration (for any period of time). . .14

         - Only 3 tax Defendants received any jail time in fiscal year 1997.

      2. Non-incarceration (or Alternative Sentence). .41

         a. Suspended Sentences. . . .16
         b. Probation. 12
         c. Other (i.e. Guilty-fines). .13

      3. Acquittals/Dismissals. . . .2

7. Total Private Funds Stolen (including tax cases) 1995-1997

   $35,730,495.00

8. Total Private Funds Stolen (including tax cases) 1992-1997

   $63,950,000.00

b. THE ENVIRONMENTAL CRIMES STRIKE FORCE: 1991-1997

1. Total Defendant/Corporations Prosecuted. 84

2. Total Convictions 66

3. Sentences Received

a. incarceration (for any period of time) 10

b. Non-incarceration (or Alternative Sentence) 56

1. Suspended Sentences 46
2. Probation 2
3. Other (i.e. Guilty-fines). . . .8

c. Acquittals/Dismissals 6

4. Total Pending Cases 12

5. Total Fines & Restitution Ordered:

$4,276,427.00

2. **The Public Protection Bureau White Collar Crime Prosecutions: 1993-1997**

a. Number of Indictments or Complaints Initiated 46

b. Number of Convictions 40

c. Sentences Received (Data Incomplete)

1. Incarcerated 9

2. Non-incarcerated 14

a. Suspended Sentence 4
b. Probation. 6
c. Other (i.e. Guilty-fines). . . .4

3. Acquittals/Dismissals. 3

d. Number of Cases Pending 7

e. FUNDS STOLEN OR RESTITUTION ORDERED:

$1,463,861.00

3. BUSINESS & LABOR PROTECTION BUREAU

a. INSURANCE FRAUD DIVISION: 1995-Dec. 1996

1. *Number of Prosecutions Initiated. 140

2. Number of Convictions. 128

3. Sentences Received

   (Non-incarceration sentences for majority of completed cases)

4. Restitution Ordered:

   $1,312,500.00

5. Insurance Fraud Stolen:

   $4,580,000.00

* *A single case may include multiple defendants & corporations.*

b. UNEMPLOYMENT FRAUD DIVISION: 1995-1996

1. *Number of Prosecutions Initiated. 148

2. **Number of Cases Closed 350

3. Sentences Received

(Non-incarceration sentences for majority of completed cases)

4. Funds & Restitution Returned To DDT:

$2,543,013.40

* *A single case may include multiple defendants & corporations.*

** *In 1995-1996, the Unemployment Fraud Division handled a caseload exceeding 1,000 cases. The above numbers do not reflect the hundreds of cases completed and closed within the past fiscal year.*

IV. Summaries of the Bureaus and Divisions Within the Attorney General's Office Responsible for Prosecuting White Collar Crime.

A. *THE CRIMINAL BUREAU.*

1. THE PUBLIC INTEGRITY DIVISION.

The Public Integrity's role is to investigate and prosecute those individuals who have violated the public trust. The challenge and responsibility of this Division is to demonstrate to the public that the law will be applied equally to all, regardless of one's position or political affiliation, both for reasons of public protection and, more broadly, to promote public confidence in government as a whole.

The Division has investigated a broad range of offenses committed by elected and appointed public officials at all levels, including conflict of interest, bribery, larceny, tax evasion, forgery, obstruction of justice, perjury and related offenses. Due to the Attorney General's commitment to combat public corruption, resources have been devoted to the prosecution of public corruption at all levels of state, county and local government throughout the Commonwealth, without regard to politics, press, or outcome, if we believed the facts and law established that the public trust had been violated.

The Public Integrity Division continues to successfully work with state and federal law enforcement officials to prosecute individuals and political committees that violated the campaign finance laws, incidents of corruption within the field of law enforcement, and numerous private businesses, state or municipal employees that stole Commonwealth funds. In addition, the Division continues to coordinate the Attorney General's Public Integrity Advisory Group, which brings together representatives from the various executive branches of state government to discuss joint effects to detect fraud, waste and abuse by government employees.

2. THE ECONOMIC CRIMES DIVISION.

The Economic Crimes Division investigates and prosecutes all types of private sector, white collar and economic crime in state courts across the Commonwealth. The victims of these crimes take many shapes, from the vulnerable elderly individual, to the small business or large corporation. The cases handled by the Division demonstrate that economic and white collar crimes cost Massachusetts working men and women millions of dollars annually. Yet, it is the personal toll these crimes take on individual victims that is staggering, stripping those victims of their life savings, their businesses, and ultimately, their personal futures. Since 1995, the Economic Crimes Division has focussed on three priority

areas: lawyer fraud, tax crimes, and all types of financial crimes (including theft and securities fraud) which victimize both vulnerable individuals and large corporations. In addition, cases involving financial crimes against the elderly are priority prosecutions for the Economic Crimes Division.

The Division receives referrals from both state and federal agencies, as well as judges, attorneys, private parties, and police departments throughout the Commonwealth. The Division continues to work closely with such offices and agencies as the Board of Bar Overseer, the Criminal Investigations Bureau of the Department of Revenue, the Secretary for the Commonwealth, the United States Attorney's Office, the F.D.I.C., and various District Attorney's Offices across the state.

The investigations initiated by the Division tend to be difficult, complex white collar cases that involve the analysis and review of prolific documentation, tracing an economic crime through exposing the "paper trail" of evidence left by the white collar criminal.

Finally, the Economic Crimes Division contains the Tax Prosecution Unit. With the team work of the Criminal Investigations Bureau of the Department of Revenue, the Division prosecutes millions of dollars of tax fraud each year. The tax prosecutions conducted by the Division consist of a wide range of defendants, from corporate CEO, to lawyers, small businesses and individuals.

3. THE ENVIRONMENTAL STRIKE FORCE.

The Massachusetts Environmental Strike Force, a collaborative effort of the Attorney General, the Secretary of Environmental Affairs, the Department of Environmental Protection, Environmental Police, and State Police, continued to pull together available governmental resources in the service of enforcing the state's environmental laws. The Strike Force also works with the U.S. Environmental Protection Agency and the U.S. Attorney's Office for the District of Massachusetts, pursuing joint state/federal environmental crimes investigations and participating in the U.S. Attorney's Clean Water Task Force.

As demonstrated by envirnmental prosecutions already completed, the Strike Force continues to seek creative and innovative sentences intended to maximize the human health and environmental benefits of environmental law enforcement. Past sentences included requiring guilty companies which committed environmental crimes to pay for their acts in a manner beneficial to the public. However, such approaches should be in addition, and not a substitution for, jail time for the appropriate defendants.

B. THE PUBLIC PROTECTION BUREAU WHITE COLLAR CRIME PROSECUTIONS: THE DIVISION OF THE CHIEF PROSECUTOR.

The Attorney General created a Chief Prosecutor position within the Public Protection Bureau to prosecute those eggregious offenders whom historically were subjected only to civil enforcement actions.

The Chief Prosecutor within the Bureau is responsible for initiating those criminal investigations into specialized areas of health care fraud, physical and financial abuse of elders and persons under the care of the Department of Mental Retardation, and finally, white collar prosecutions of infirm, vulnerable or disabled victims requiring specialization not found in traditional prosecutorial organizations throughout the Commonwealth.

The accomplishments of the Division of the Chief Prosecutor are best demonstrated by the cases handled. Without exception, the Division has filled a need for protection from fraud and financial exploitation where little to no criminal enforcement had before existed. With limited prosecutorial resources, the Chief Prosecutor has overseen and supervised criminal prosecutions, training and education in multiple areas involving health care, unlicensed practitioners, telemarketing fraud and criminal contempt.

C. *THE BUSINESS & LABOR PROTECTION BUREAU.*

1. THE MEDICAID FRAUD CONTROL UNIT.

The State Medicaid Fraud Control Units were established in 1977-78 as a result of federal legislation authorizing individual states to investigate and prosecute fraud and abuse within the Medicaid Program. The Massachusetts Medicaid Program alone administers over $3.6 billion for health care goods and services to nearly 600,000 recipients. The Massachusetts Unit, along with 47 other states, are certified annually and receive 75% of their operating budget from the federal government. Investigating and prosecuting Medicaid provider fraud is a major responsibility in Massachusetts, as the state Medicaid Program is the largest line item in the state budget. The Massachusetts Medicaid budget is ranked sixth largest in the nation.

The Attorney General's Medicaid Fraud Control Unit investigates and prosecutes healthcare providers for defrauding the Medicaid Program, and those caretakers that abuse, neglect, mistreat or financially exploit the elderly and disabled in long term care facilities. Over the last six years, the Medicaid Fraud Control Unit has initiated several hundred criminal and civil enforcement actions as it sought to have a significant deterrent impact on the healthcare provider community. The Unit has brought criminal and civil actions against a variety of healthcare providers, including physicians, dentists, psychiatrists, pharmaceutical, transportation and durable medical equipment companies, clinical laboratories and home health aides.

2. THE INSURANCE FRAUD DIVISION.

The Insurance Fraud Division ("IFD")investigates all types of insurance fraud allegations involving fraud against insurers and against public entities, such as the Commonwealth, its agencies and political subdivisions. The IFD also works with other Divisions in the Attorney General's Business & Labor Protection Bureau to investigate and prosecute insurance fraud that adversely effects businesses or fair competition. Cases run a full range, from multi-million dollar premium fraud cases, major conspiracies by professionals or firms, to conspiracies centered around auto repair businesses, and filing false insurance claims or homeowners' policies.

The IFD receives cases from a number of sources. By far, the biggest source of cases is the Massachusetts Insurance Fraud Bureau. The IFD also receives cases from the Public Employee Retirement Administration (PERA), the Governor's Auto Theft Strike Force(GATSF), the Department of Industrial Accident(DIA), the Worker's Compensation Rating and Inspection Bureau (WCRIB), the National Insurance Crime Bureau (NICB), as well as cities and towns, private attorneys, judges and concerned citizens throughout the Commonwealth.

3. THE UNEMPLOYMENT FRAUD DIVISION.

The Unemployment Fraud Division enforces the provisions of the Massachusetts Employment Security Law pursuant to its authority under Massachusetts General Laws chapter 151A, Section 42-A. Actions involving employer tax fraud and larceny of unemployment benefits are prosecuted in the District and Superior Courts.

While the Division primarily receives its referrals from the Division of Employment and Training ("DET"), it also generates its own independent actions. Through the utilization of resources in other divisions in the Business & Labor Protection Bureau, the Division targets complex and sophisticated schemes involving various combinations of employment security fraud, prevailing wage, and workers compensation violations. This interdisciplinary effort has been instrumental in the Division's investigation, and successful prosecution, of egregious violators.

V. Statistical Graphics

White Collar Crime and Public Corruption Cases Prosecuted by the Office of the Attorney General

*Note: The following graphics could not have been created without the great assistance of Paul Stewart, Director, Financial Investigators, and David Spector, Management Information Systems.

PUBLIC INTEGRITY DIVISION: 1991-1997

1. Number of Prosecutions Initiated.

   a. Total Cases Prosecuted 198
   b. Public Employee Prosecutions . . .117

2. Number of Defendant Convicted. 133

3. Sentences Received

   a. Incarcerated. 39

   b. Non-incarcerated

      1. Suspended Sentence and/ or Probation 94
      2. Acquittals/Dismissals 30

4. Number of Cases Pending. 35

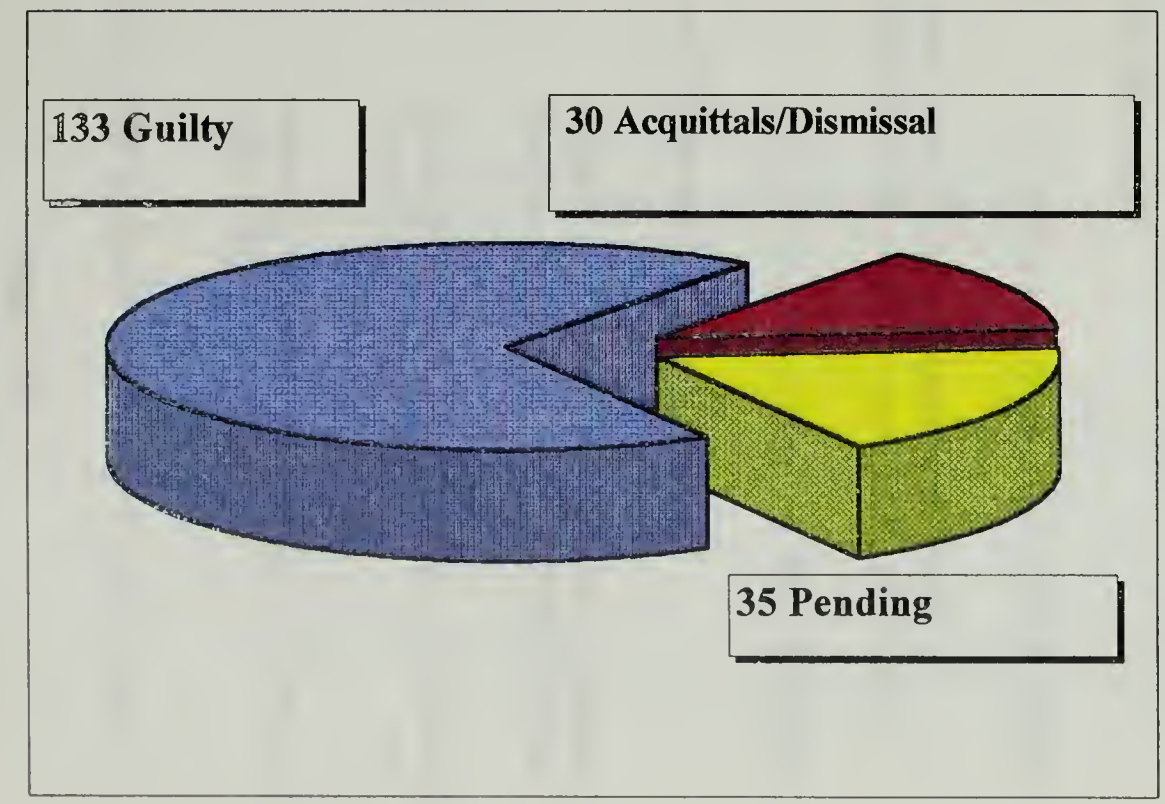
5. PUBLIC FUNDS STOLEN: **$4,729,940.00**

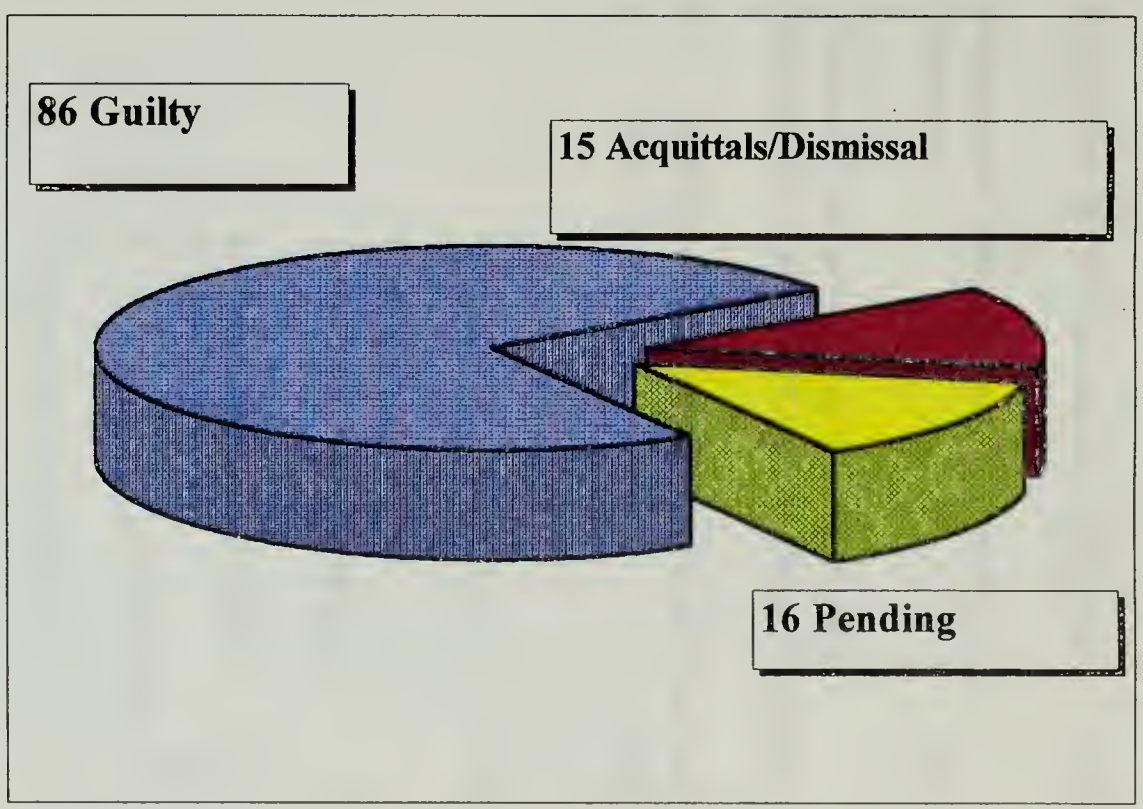
Public Integrity Division
1991 - 1997

Total Cases Prosecuted - 198

Public Employee Prosecutions - 117

Incarcerated 26%
non-incarcerated 74%





Public Funds Stolen $4,729,940

THE ECONOMIC CRIMES DIVISION: 1992-1997

1. *Number of Prosecutions Initiated. . .262

2. Number of Defendants/Corporations Convicted 243

3. Sentences Received For White Collar Defendants: **1995-1997** (excluding tax cases)

   a. Number of Defendants/Corporations Convicted 102

      1. Incarceration (for any period of time) 36

      2. Non-incarceration (or Alternative Sentence). 6

         a. Suspended Sentences 23
         b. Probation 20
         c. Other (i.e. Guilty-fines) .23

      3. Acquittals/Dismissals. 4

4. Cases Involving **Elder** Victims/Witnesses For 1995-1997

   a. Amount of Funds Stolen: **$3,738,495.00**

5. Cases Involving **Nonprofit & Profit** Corporations or Businesses For 1995-1997

   a. Amount of Funds Stolen: **$3,748,000.00**

6. **Tax Prosecutions For 1995-1997**

   a. Total Unreported Taxable Sales, Meals, Wages or Income: **$27,256,000.00**

   b. Number of Tax Defendants/Corporations Convicted 1995-1997. 55

   c. Sentences Received For Tax Defendants 1995-1997

* *A single case may include multiple defendants & corporations.*

1. Incarceration
(for any period of time). . .14

-Only 3 tax Defendants received any jail time in fiscal year 1997.

2. Non-incarceration
(or Alternative Sentence). .41

a. Suspended Sentences. . .16
b. Probation. 12
c. Other (i.e. Guilty-fines).13

3. Acquittals/Dismissals. . . .2

7. Total Private Funds Stolen
(including tax cases) 1995-1997

$35,730,495.00

8. Total Private Funds Stolen
(including tax cases) 1992-1997

$63,950,000.00

Economic Crimes Division

1995 - 1997

163 Dispositions

Traditional White Collar Crime

102 Guilty

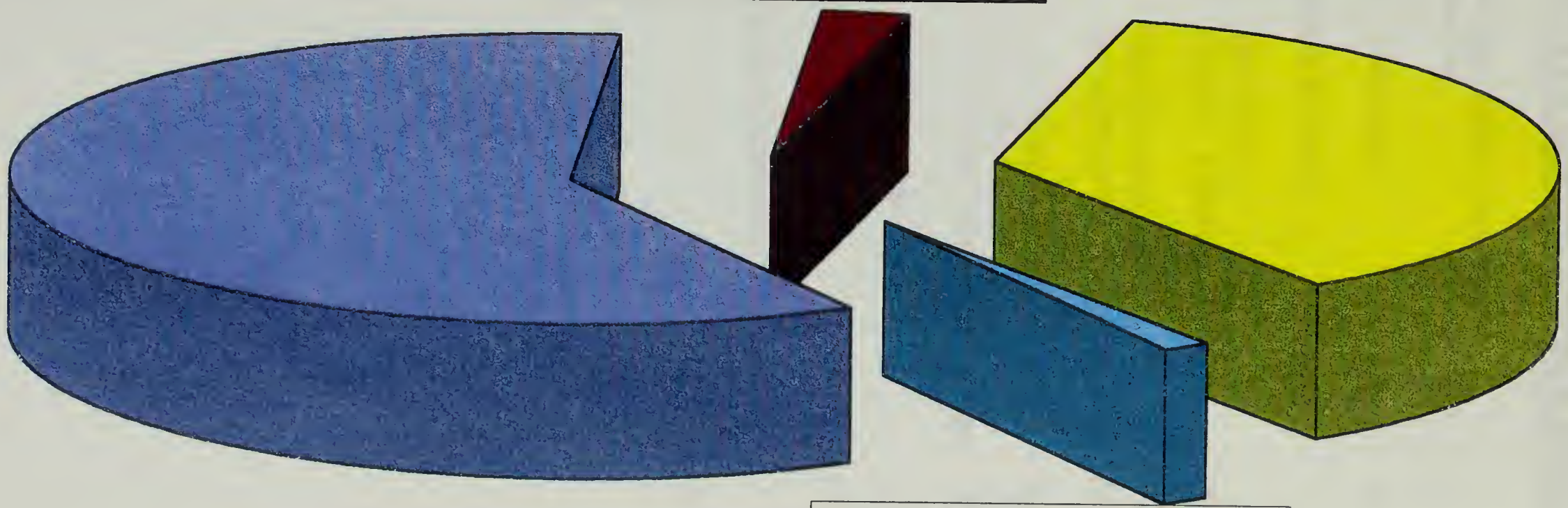
Incarceration 35%
Non-incarceration 65%

4 Acquittals/ Dismissals {White Collar Crime}

Tax cases

55 Guilty

Incarceration 25%
Non-incarceration 75%



2 Acquittals/ Dismissals {Tax}

Total Stolen Funds $35,730,495

THE ENVIRONMENTAL CRIMES STRIKE FORCE: 1991-1997

1. Total Defendant/Corporations Prosecuted. 84

2. Total Convictions 66

3. Sentences Received

   a. incarceration (for any period of time) 10

   b. Non-incarceration (or Alternative Sentence) 56

      1. Suspended Sentences 46
      2. Probation 2
      3. Other (i.e. Guilty-fines) .8

   c. Acquittals/Dismissals 6

4. Total Pending Cases 12

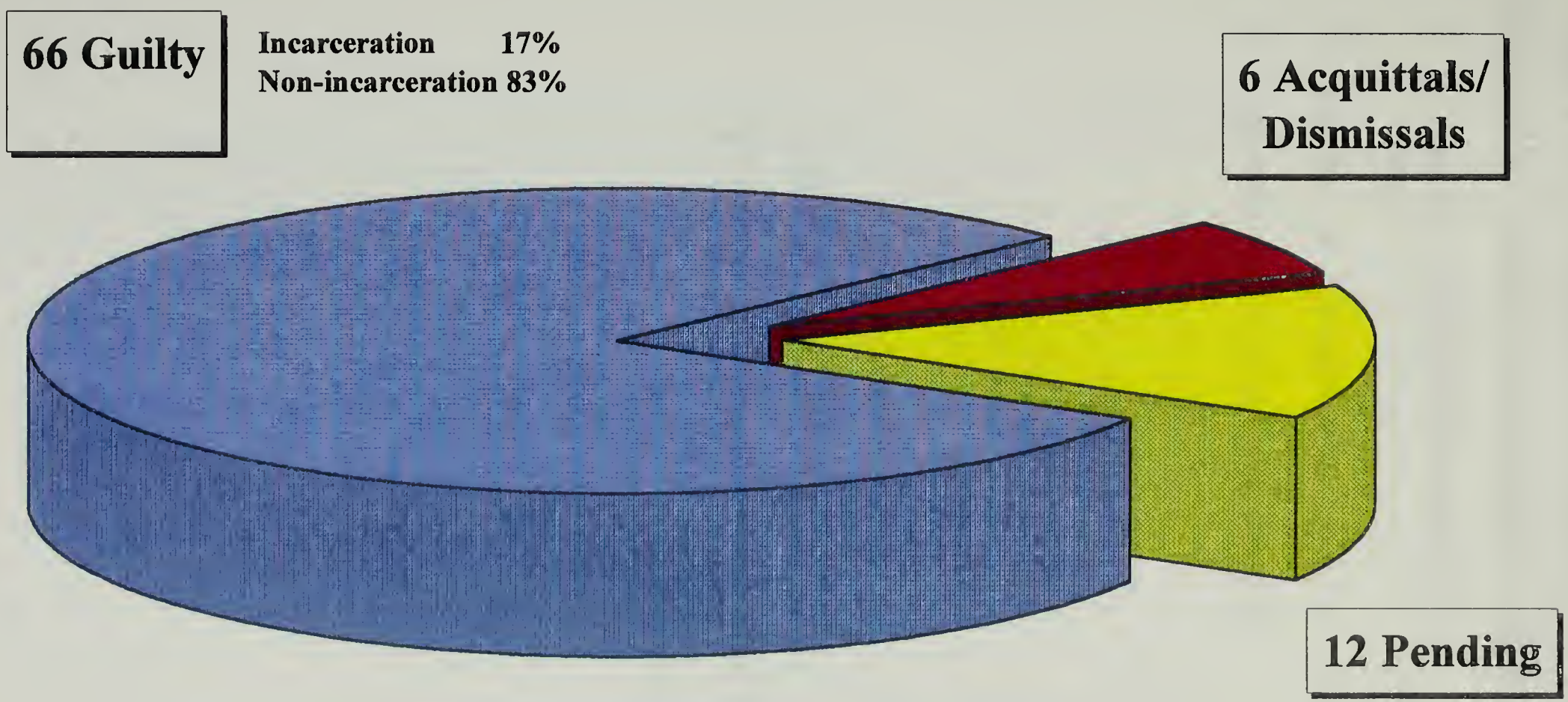
5. Total Fines & Restitution Ordered:

$4,276,427.00

Environmental Crimes Strike Force

1991 - 1997

Total Defendant/Corporations Prosecuted 84



Fines & Restitution Ordered

$4,276,427.00

8/15/97

THE PUBLIC PROTECTION BUREAU
White Collar Crime Prosecutions: 1993-1997

1. Number of Indictments or Complaints Initiated 46

2. Number of Convictions 40

3. Sentences Received (Data Incomplete)

   a. Incarcerated 9

   b. Non-incarcerated 14

      1. Suspended Sentence 4
      2. Probation. 6
      3. Other (i.e. Guilty-fines). . . .4

   c. Acquittals/Dismissals. 3

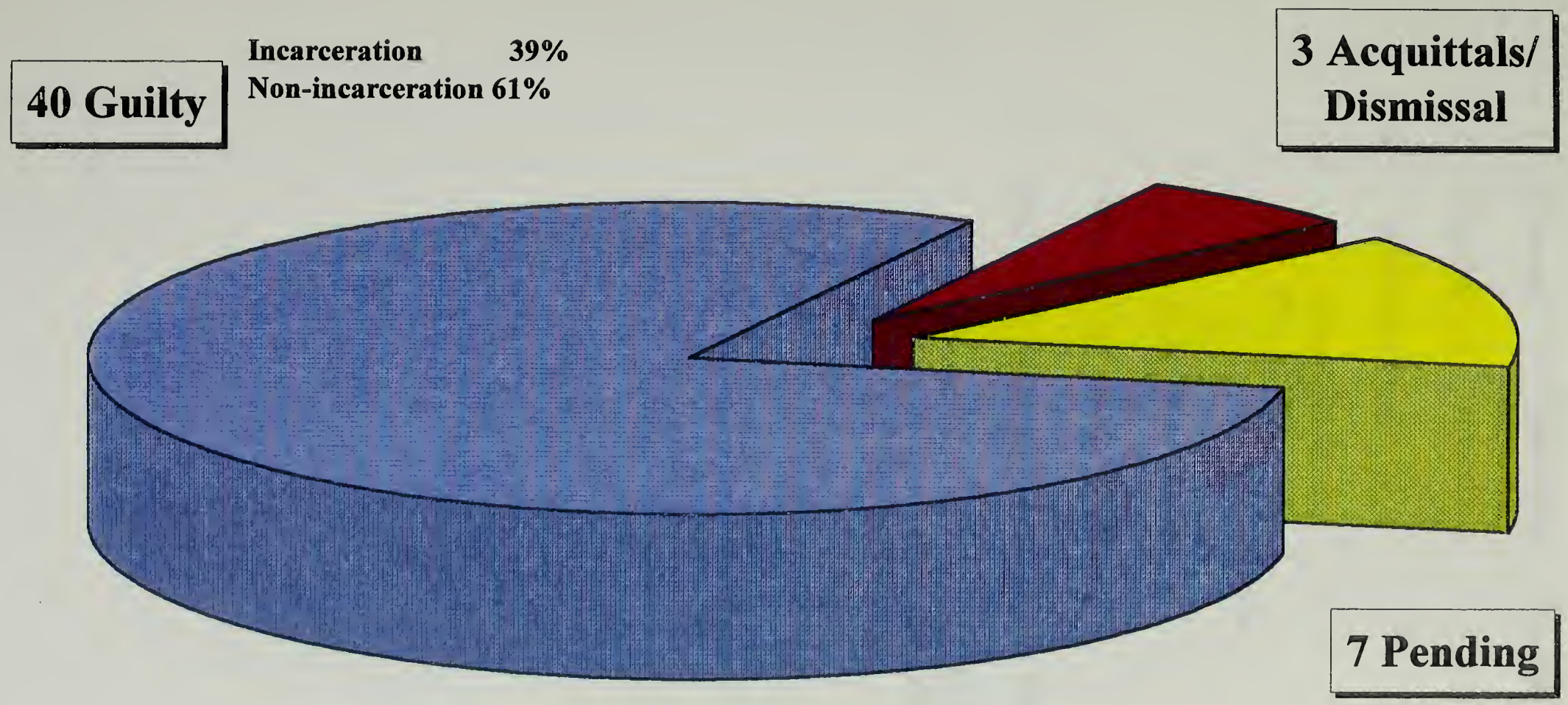
4. Number of Cases Pending 7

5. FUNDS STOLEN OR RESTITUTION ORDERED:

   $1,463,861.00

Public Protection Bureau

1993 - 1997



Funds Alleged to have been Stolen or Restitution Ordered

$1,463,861

MEDICAID FRAUD CONTROL UNIT: 1992-1997

1. Number of Prosecutions Initiated . . .58

2. Number of Convictions. 64

3. Sentences Received

   a. Incarcerated. 21
   b. Non-incarcerated. 43
      1. Suspended Sentence 20
      2. Probation. 23
   c. Acquittals/Dismissals 0

4. Number of Cases Pending. 8

5. Total Public Medicaid Fraud Funds Recovered

   a. Criminal. $1,419,324.50
   b. Civil $24,595,577.00

Medicaid Fraud Control Unit

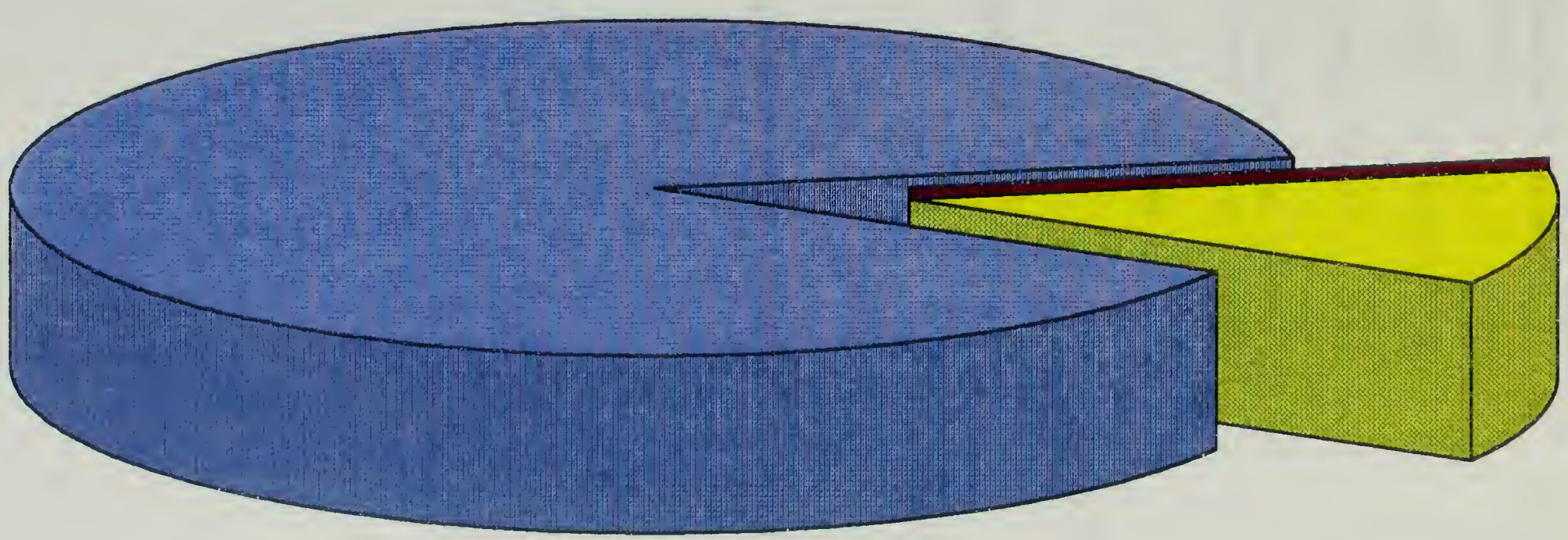
1992 - 1997

Criminal Prosecutions

64 Guilty

Incarceration 33%
Non-incarceration 67%

0 Acquittals/Dismissals



8 Pending

Total Public Medicaid Funds Recovered

Criminal $1,419,325

Civil $24,595,577

INSURANCE FRAUD DIVISION: 1995-Dec. 1996

1. *Number of Prosecutions Initiated. 140

2. Number of Convictions. 128

3. Sentences Received

   (Non-incarceration sentences for majority of completed cases)

4. Restitution Ordered:

   $1,312,500.00

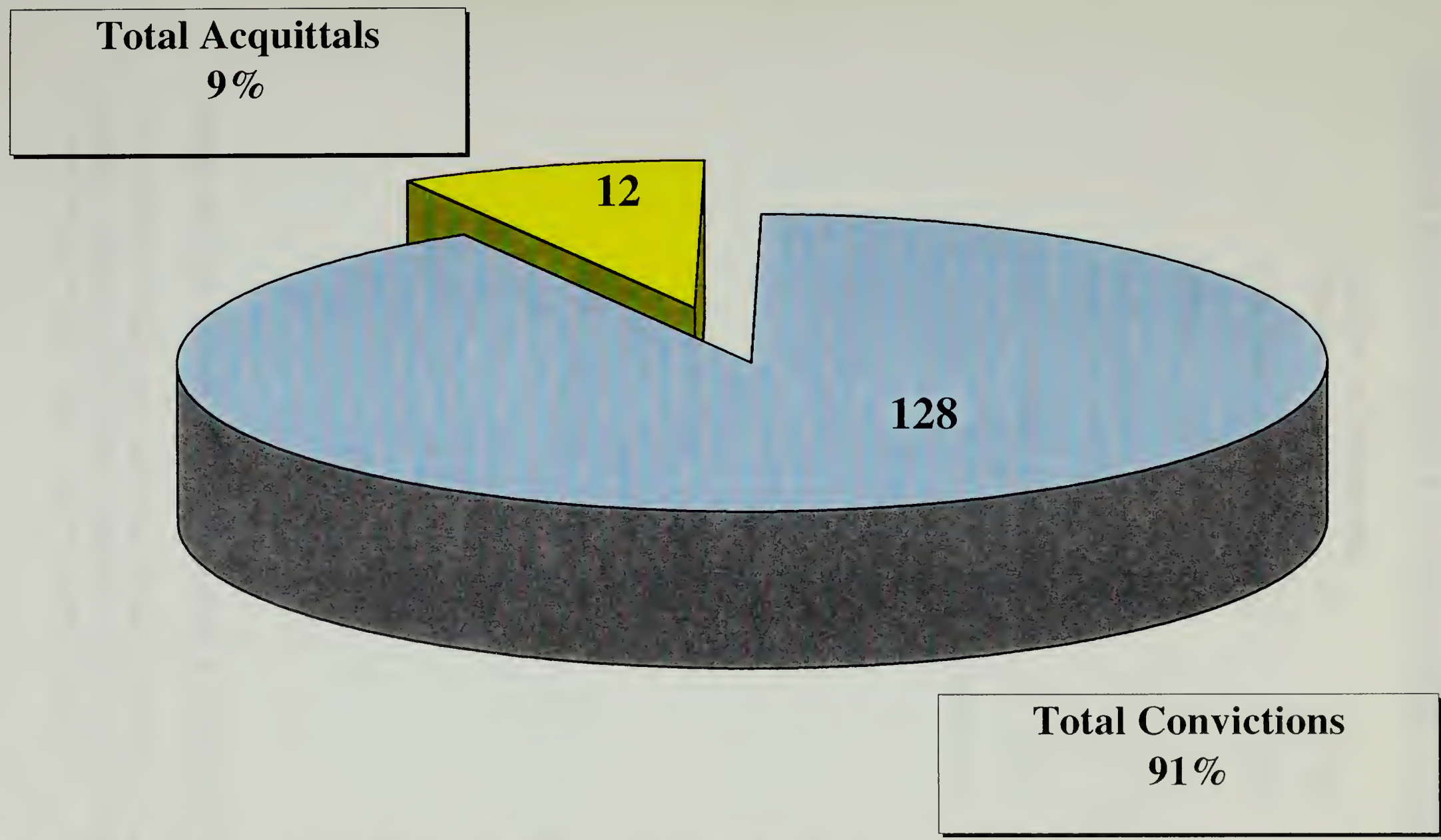
5. Insurance Fraud Stolen:

   $4,580,000.00

* *A single case may include multiple defendants & corporations.*

Insurance Fraud Division

1995 - 1996



Restitution Ordered $1,312,500

Alleged Stolen $4,580,000

UNEMPLOYMENT FRAUD DIVISION: 1995-1996

1. *Number of Prosecutions Initiated. 148

2. **Number of Cases Closed 350

3. Sentences Received

   (Non-incarceration sentences for majority of completed cases)

4. Funds & Restitution Returned To DDT:

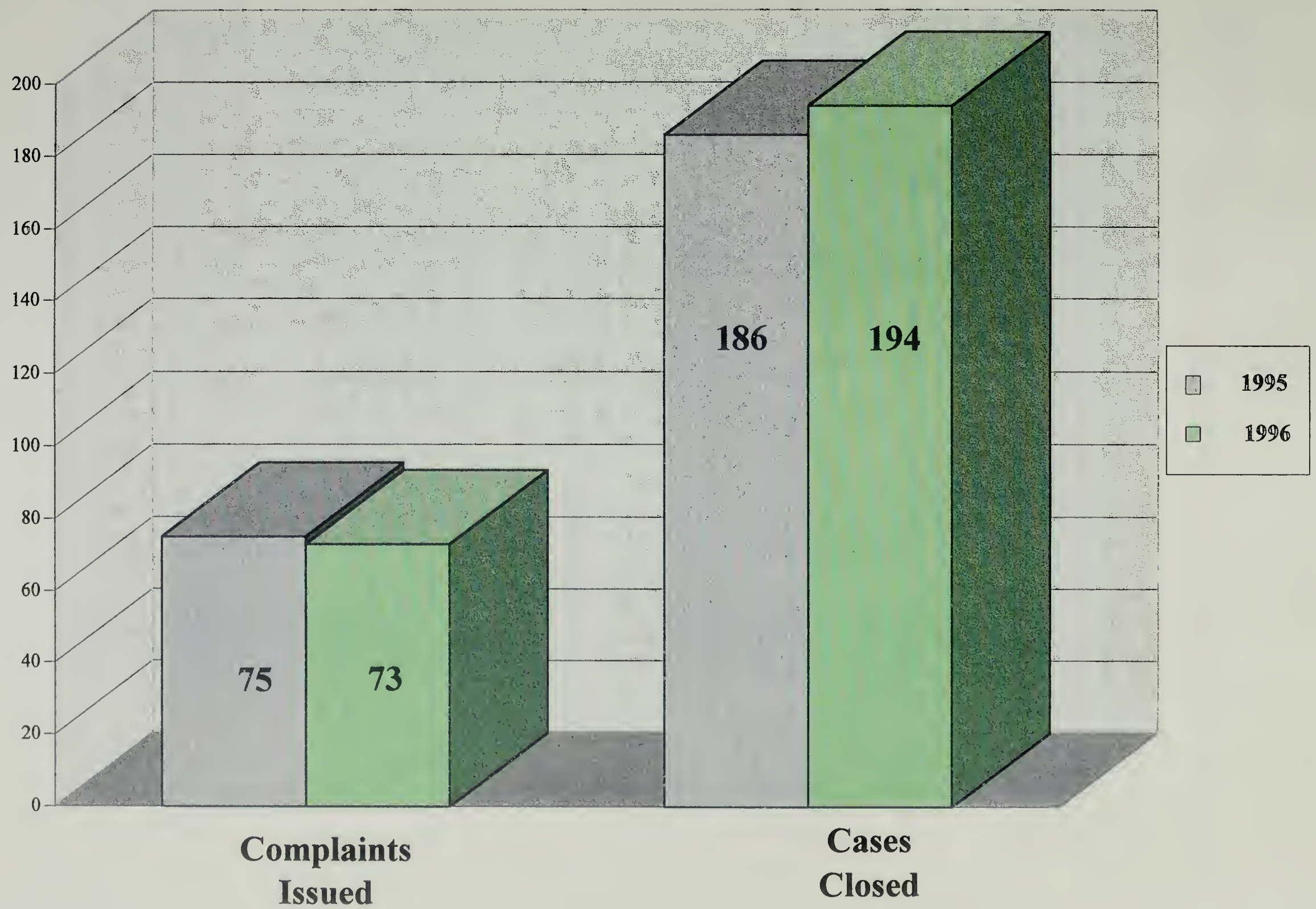
   $2,543,013.40

* A single case may include multiple defendants & corporations.

** In 1995-1996, the Unemployment Fraud Division handled a caseload exceeding 1,000 cases. The above numbers do not reflect the hundreds of cases completed and closed within the past fiscal year.

Unemployment Fraud Division

1995 - 1996



VI. Conclusion

The changing face of corruption, fraud, economic and white collar crime require sophisticated enforcement techniques backed by new tools, tougher penalties, updated investigative skills, and clearer and stronger conflict guidelines. The cases presented in this report, represented statistically, demonstrate the current need for tougher penalties for the white collar and public corruption offender, even as they further demonstrate what we have done with the existing statutes.

As a result of the numerous investigations and prosecutions we have conducted, we are proposing a series of recommendations to aggressively address the problems associated with combatting white collar crime.

First, legislation is critically needed to provide additional tools necessary to prosecute offenders and to ensure that serious offenders are punished appropriately. The Legislature must:

- increase penalties for major frauds, thefts and embezzlements;
- increase penalties for tax evasion;
- create the crime of bank fraud;
- enact a Racketeering Influenced and Corrupt Organization Act (RICO), modeled after the federal statute;
- increase penalties and clarify conflict of interest laws;
- create a statewide grand jury;
- create the crime of extortion by abuse of public office.

Second, the Sentencing Commission Guidelines on white collar offenders should be modified to adequately reflect the seriousness of economic offenses. Among other suggestions, we strongly urge that white collar crimes be staircased and that larceny over $100,000, particularly where an elderly citizen is the victim, mandates increased punishment. It is time to recognize that financial victimization for an elderly person who lacks the ability to recover a lifetime of savings often results in long-term consequences that equals or surpasses even physical violence.

Third, the ethics laws in Massachusetts must be reformed. Attorney General Harshbarger supports the recommendations issued by the Special Commission on Ethics. Legislation based on the Special Commission's recommendations would clarify permissible and prohibited conduct for state, municipal and county employees and employers, as well as assure procedural fairness for individuals called before the State Ethics Commission, and provide prosecutors with more effective tools to enforce conflict of interest laws where criminal, rather than administrative, action is warranted.

Fourth, Attorney General Harshbarger has recently established a High Technology Crime Unit in the Criminal Bureau to help combat computer crime which results in industry losses of between five and ten billion dollars annually. The Unit, a joint effort with the Executive Office of Public Safety, is one of the first of its kind in the country and the first in the Northeast.

White collar crime must be taken seriously by the legislature, the courts, and most importantly, by the public. Serious offenders must face incarceration in order to deter fraud of our citizens. We must work together through aggressive prosecution, sentencing and legislative reform to rid this state of economic crime.